



Marijuana Incarceration in **CALIFORNIA JAILS**

**DESPITE CHANGES IN MARIJUANA LAW,
THOUSANDS CONTINUE TO BE
INCARCERATED FOR MARIJUANA OFFENSES**



New**Frontier**[™]
data

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INTRODUCTION

New Frontier Data conducted an analysis of data provided by 20 California counties to determine the number of people in California jails for marijuana-related offenses. This research sought to answer the following questions:

- How many people in California are convicted and sentenced to jail each year specifically for marijuana-related offenses only (Marijuana Only)?
- How many people in California are convicted and sentenced to jail each year for multiple offenses, which include, but are not limited to, marijuana-related offenses (Marijuana Plus)?
- What are the demographics of the population jailed for marijuana-related offenses, including age, gender and ethnicity?
- What are the sentence lengths for persons in the Marijuana Only and Marijuana Plus categories?
- What are the specific marijuana-related offenses for which they were incarcerated?

The analysis focused on the following marijuana-related offenses:

 CALIFORNIA MARIJUANA-RELATED OFFENSES	
California Health & Safety Code	Description
§ 11357(a)	Possession of concentrated cannabis
§ 11357(b)	Possession of marijuana, 28.5 grams or less
§ 11357(c)	Possession of marijuana, more than 28.5 grams
§ 11357(d)	Possession of marijuana on school grounds, over age 18
§ 11357(e)	Possession of marijuana on school grounds, under age 18
§ 11357.5(a)	Sale of synthetic cannabinoid derivative
§ 11358	Cultivation of marijuana
§ 11359	Possession for sale of marijuana
§ 11360(a)	Trafficking marijuana
§ 11360(b)	Trafficking marijuana, other
§ 11361(a)	Use of a minor in transporting, selling, preparing for sale of marijuana, sale/distribution of marijuana to a minor age 14 or younger, inducement of a minor to use marijuana
§ 11361(b)	Sale/distribution of marijuana to a minor age 14 or older

KEY FINDINGS

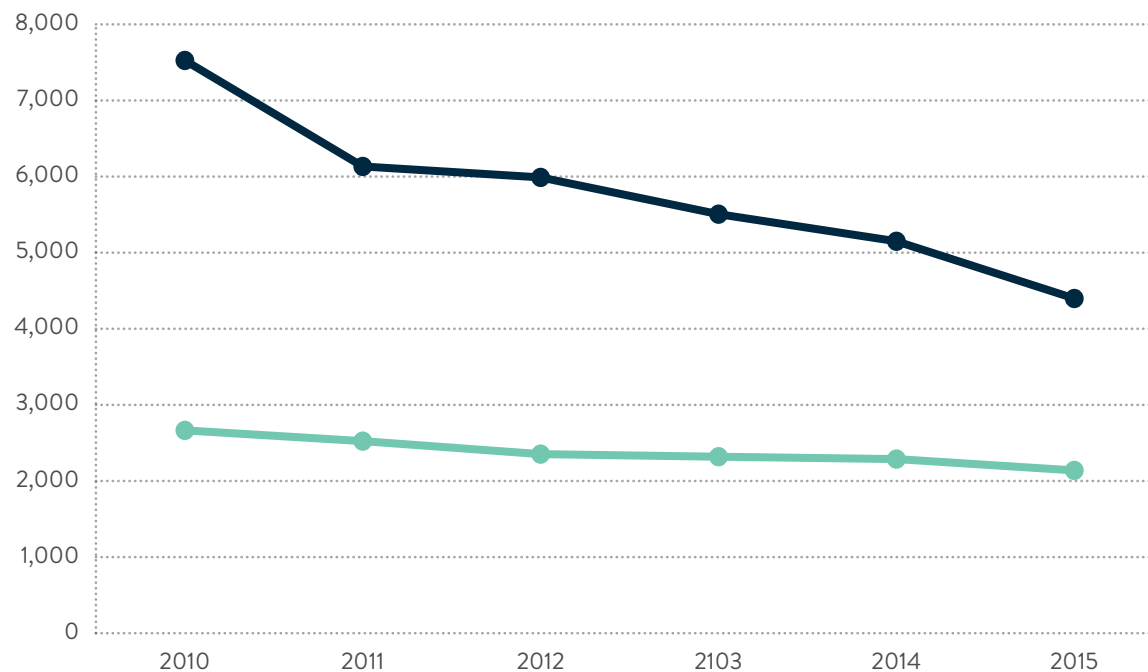
Marijuana-Related Incarcerations Persist

Based on a model of statewide marijuana-related incarcerations created from data provided by California counties, an estimated 2,139 people were convicted, sentenced, and jailed for Marijuana Only offenses in 2015. This was a 21% decline from the 2,665 people jailed for Marijuana Only offenses in 2010¹. The number of people sentenced and jailed for Marijuana Plus offenses—charges that included, but were not limited to, marijuana offenses—fell from 7,526 in 2010, to 4,398 in 2015; a 42% decline. Thus, in 2015, approximately 6,537 people were jailed in California for a marijuana offense.

1. This is an as-expected decline, because effective January 1, 2011 possession of marijuana for personal use was reduced from a misdemeanor to an infraction. Cal. Health & Safety Code § 11357(b). While the penalties did not change – possession for personal use was not subject to punishment in jail even before this law passed – marijuana-related offenses became a lower law enforcement priority as a result of this penalty reduction.



ESTIMATED NUMBER OF MARIJUANA RELATED INCARCERATIONS IN CALIFORNIA BY YEAR (2010-2015)*



● Marijuana Only

● Marijuana Plus

*These data represent California statewide estimates for the unique number of people convicted and sentenced to jail each year for marijuana-related offenses. The data represent only persons who have been sentenced and jailed - it does not include people who have been arrested and detained but not convicted. The estimates are modeled based on data received from a sample of 20 diverse counties representing various regions, population densities, political orientations, and demographic makeups.

The Average Sentence for Marijuana Only Offenses is Approximately 5 ½ Months

Statewide, the mean sentence length for marijuana-only offenses in 2014 was 145 days in jail, or approximately five and a half months. The jail time for Marijuana Plus offenses, while slightly lower at 129 days, has been trending upwards since 2010².

2. Given the limits of this study, we do not hypothesize to the reasons that the sentences were much shorter for those charged with other crimes in addition to marijuana offenses.

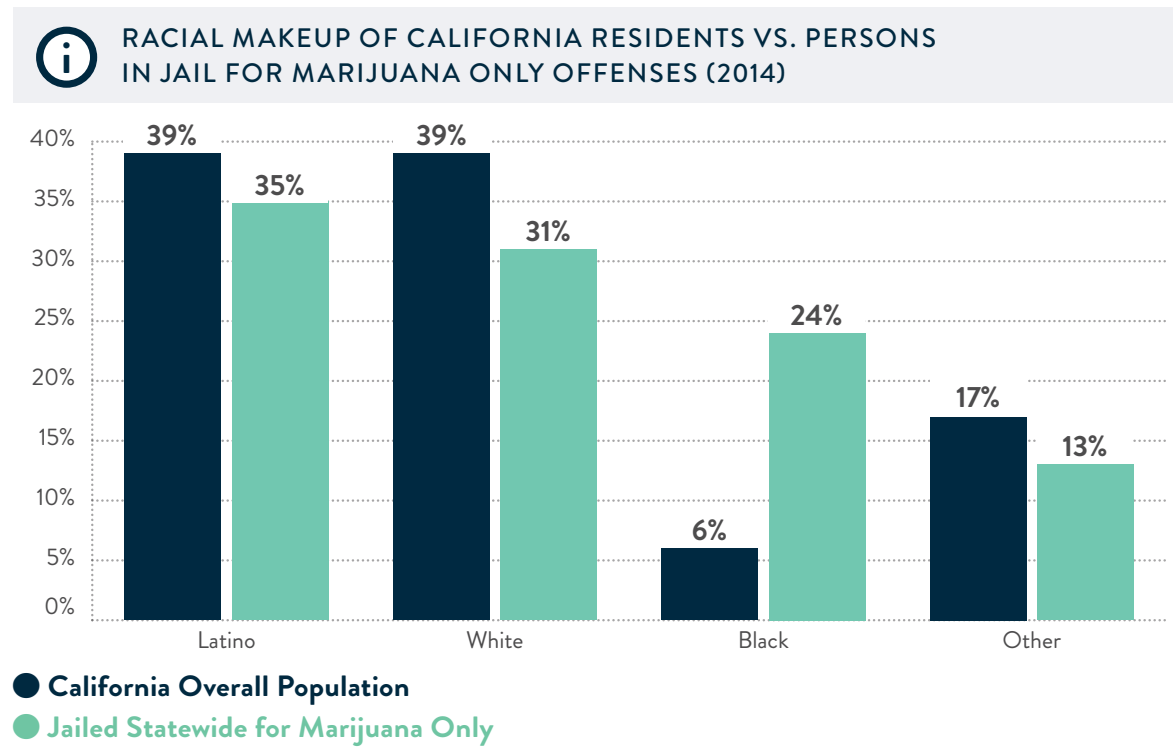
MEAN LENGTH OF SENTENCE FOR MARIJUANA-RELATED OFFENSES IN DAYS (2010-2014)

	2010	2011	2012	2013	2014
Marijuana Only	183	182	196	147	145
Marijuana Plus	111	135	151	142	129

Severity of sentence was not consistent across counties. For example, in the more affluent Orange County, the mean sentence for Marijuana Only offenses was 32 days in 2014. In urban Los Angeles County, the average sentence was almost 8.5 times longer at 269 days. This wide variance may reflect divergent ways in which marijuana-related laws are prioritized and enforced within local jurisdictions.

Black Communities Continue to Bear the Brunt of Disparate Marijuana Enforcement

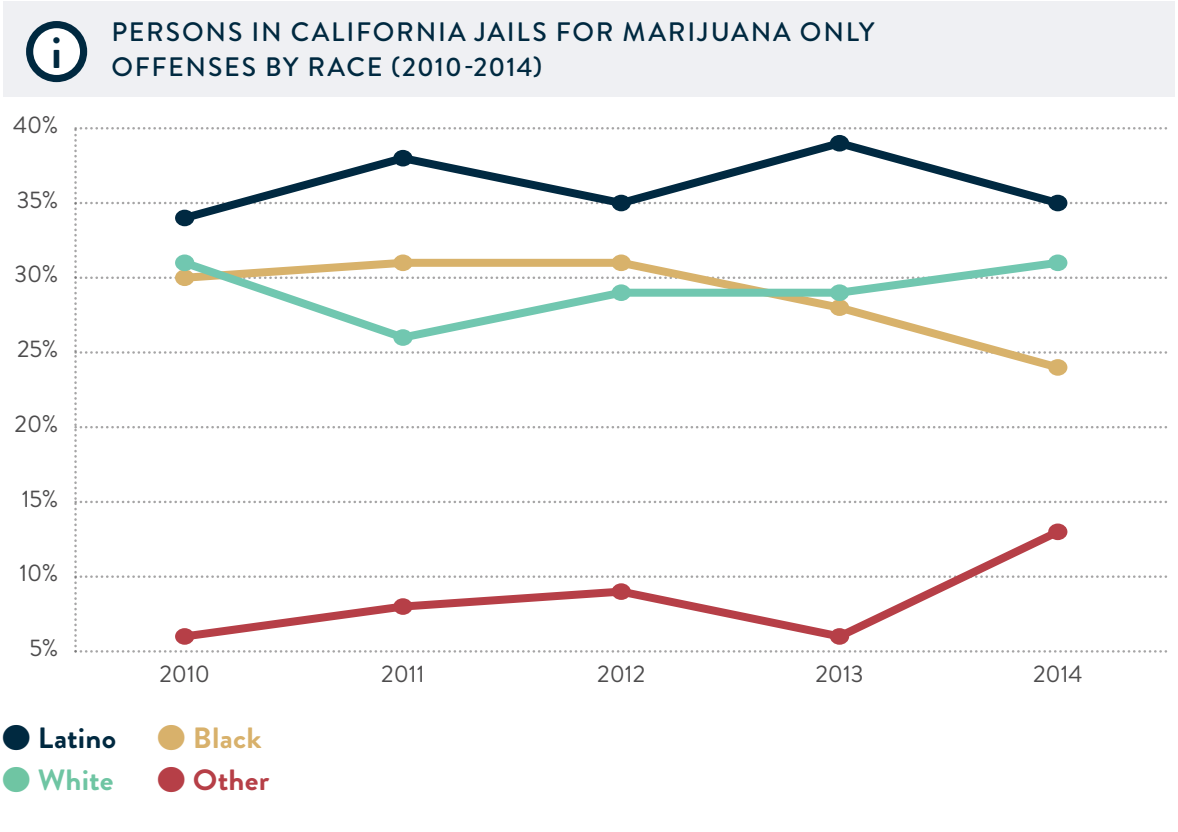
There are stark racial disparities in California’s marijuana-related jail population. Black, white, and Latino persons use and sell marijuana at similar rates. Yet, black Californians are jailed for Marijuana Only offenses at much high rates. Nearly one quarter (24%)



of people jailed for Marijuana Only offenses are black, yet black people only make up 6% of the state population. Latino³ and white adults appear to be slightly underrepresented among persons jailed for Marijuana Only offenses relative to the overall state population. However, this finding may be skewed by the common error of staff assigning 'white' designations to people of Latino or Hispanic heritage. This error leads to undercounting Latinos and overcounting whites, masking possible disparities in policing and sentencing practices.

The racial mix of Californians jailed for Marijuana Only offenses has remained relatively consistent since 2010, with one exception. Although black people continue to be jailed at grossly disproportionate rates for Marijuana Only offenses, the disparities have narrowed slightly. In 2012 black people made up 31% of persons jailed for Marijuana Only offenses as compared 24% in 2014.

3. This group was identified as Hispanic in the county jail data.

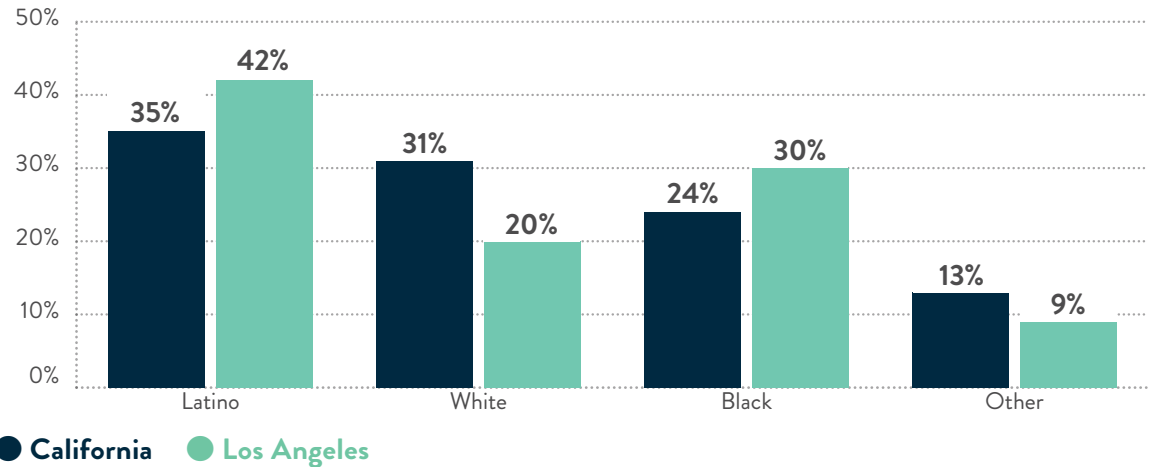


In Los Angeles County, Blacks are Jailed for Marijuana Only Offenses at Disproportionately Higher Rates

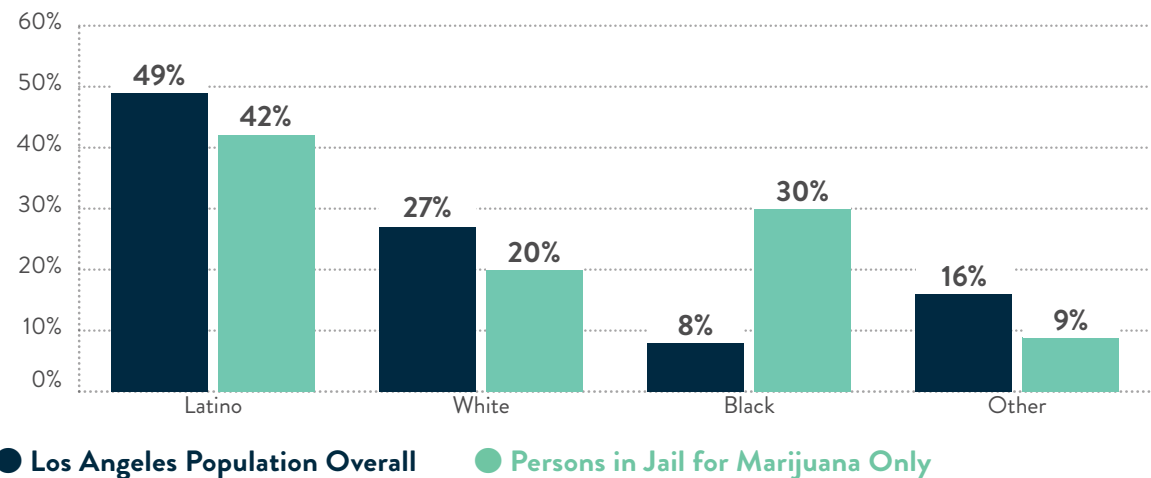
There were striking differences in the racial makeup of Marijuana Only incarcerations between Los Angeles and the rest of the state, and blacks are grossly overrepresented. Only 8% of Los Angeles County residents are black, yet they make up 30% of people jailed for marijuana only offenses in the county. Comparatively, Latinos account for nearly half (49%) of the county’s population, but make up 42% of those jailed, and whites are 27% of the population, but make up 20% of the jailed population. Again, data on white and Latino incarceration rates are subject to the limitation that staff may misstate the ethnicity of some persons in jail, resulting in an undercount of Latinos and an overcount of whites.



RACIAL MAKEUP OF PERSONS IN JAIL FOR MARIJUANA ONLY OFFENSES: CALIFORNIA VS. LOS ANGELES COUNTY (2014)



LOS ANGELES COUNTY: OVERALL POPULATION VS. PERSONS IN JAIL FOR MARIJUANA ONLY (2014)



METHODOLOGY

Due to the Criminal Justice Realignment of California’s penal system in 2011, most individuals convicted of low-level felonies in California are now housed in county jails, and not in the state-run prison system. Consequently, much of the data related to marijuana incarcerations is maintained at the municipal level, not at the state level. There are no uniform reporting standards or requirements, nor is there a central data collection protocol for California’s vast jail system.

To obtain the data, New Frontier submitted Public Record Act (PRA) requests to all 58 California county jails beginning in September 2015 and ending August 2016. Responses varied widely across the state, falling into three broad categories:

- Counties that were able to produce the data as specified in the information request.
- Counties that had the data but were unable to produce it due to the high costs of custom programming required to query and extract the data.

- Counties that were unable to produce the requested data due to outdated and dysfunctional database systems.


Among the counties that responded, 12 provided data on people jailed specifically for marijuana-related offenses (Marijuana Only), while 13 provided records on all marijuana-related incarcerations (Marijuana Only and Marijuana Plus). The following counties provided the data used in the analysis, representing a diverse cross-section of jurisdictions in the state:

The counties that provided data on Marijuana Only incarcerations account for 47% of the state population, whereas the counties that provided data on Marijuana Plus incarcerations accounted for 46% of the state population. Due to the overlap in counties which provided data on both Marijuana Only and Marijuana Plus incarcerations, the counties represented in both groups collectively account for approximately half (49%) of the state’s population.

Provided Marijuana Only Data	Provided Marijuana Plus Data	Provided Both Marijuana Only & Marijuana Plus Data
Inyo County	Alpine County	Contra Costa County
Merced County	Amador County	Los Angeles County
Orange County	Del Norte County	Orange County
Placer County	San Mateo County	Sonoma County
Santa Clara County	Solano County	Sutter County
Santa Cruz County	Stanislaus County	
Shasta County	Tehama County	
Yuba County	Trinity County	

The 12 counties which provided data on Marijuana Only offenses reported 1,243 people incarcerated for marijuana offenses alone in 2010, which fell to 1,064 in 2014. The 14 counties which reported Marijuana Plus offenses saw the number of people jailed fall from 3,451 in 2010 to 2,348 in 2014.

Using the data provided by these counties, an aggregated mean incarceration rate was calculated and adjusted based on the changes in county populations between 2010 and 2014 as reported by the U.S. Census Bureau. Using the computed rates per capita at which the population is jailed for marijuana-related offenses, annual estimates were prepared for all other counties based on each county's annual population over the five-year period. The statewide estimates were then calculated based on the total Marijuana Only and Marijuana Plus incarcerations computed from each county.

 TOTAL PERSONS JAILED FOR MARIJUANA OFFENSES AMONG THE COUNTIES WHICH PROVIDED DATA								
	Counties Represented	Total Jailed Population					Total Population Represented (2014)	Percent of Population (2014)
		2010	2011	2012	2013	2014		
Marijuana Only	12	1,243	1,176	1,096	1,079	1,064	18,046,334	46.63%
Marijuana Plus	14	3,451	2,804	2,737	2,513	2,348	17,707,303	45.96%

LIMITATIONS

This is a study only of adult facilities and should not be applied to juvenile populations.

Authors were only able to get data from certain jurisdictions, and the quality of the collection of data and reporting of data was highly variable. The significant variance in the way in which jail records are processed and stored makes it very challenging to compile a complete and comprehensive picture of the number of people sentenced to jail in California, and the reasons for their incarceration.

Lack of technical infrastructure is a significant barrier to the analysis of California jails. As part of this study, Public Record Act (PRA) requests were sent to all 58 California counties requesting data on the number of persons jailed for marijuana-related offenses since 2010. The responses varied widely across the state. The counties with modern database systems were able to process the request with minimal effort, but for the counties with legacy IT systems, fulfilling the request was a much more significant undertaking. In some cases, pulling the data

required hours of customized programming, costing thousands of dollars in custom processing fees. In other cases, the county's technical infrastructure was simply not designed in a way that would make it possible to extract the requested information.

Modernizing the database infrastructure in California jails will be an important step toward ensuring that both lawmakers and the public have a full and transparent view of the outcomes of current policy and can accurately assess the potential impact of the proposed changes to the law.

CONCLUSION

Thousands of Adults are Incarcerated for Marijuana Offenses in California and the Severity of Sentences Varies Dramatically Across the State.

Despite recent declines in marijuana-related incarcerations, over 6,000 unique Californians were in jail for marijuana-related offenses for some period of time last year. Over 2,000 people were jailed for marijuana offenses alone, and nearly 4,400 were jailed for multiple offenses, which include at least one marijuana conviction.

Significant Variation Between Counties in Per Capita Rates of Incarceration and Length of Sentences for Similar Offenses

The number of convictions per capita varies widely across the state, as does the average length of incarceration, reflecting an unequal and highly localized approach to the enforcement of marijuana laws at the county level.

Black People are Significantly Overrepresented in the Population Jailed for Marijuana-Related Offenses

Black people account for six percent of the California's population, but represent nearly one quarter (24%) of those jailed for marijuana offenses alone across the state. The discrepancy is even greater in Los Angeles County, where black people represent just eight percent of the county's population, but account for 30% of those jailed for Marijuana Only offenses.

National survey data demonstrates that black, Latino, and white people all consume and sell marijuana at similar rates. Despite this, institutionalized discriminatory practices have resulted in black people being far more likely to end up in jail for drug offenses than other races, and the significant costs of the arrest, booking, court, incarceration, probation, and parole are borne by taxpayers. Furthermore, even for those who many escape imprisonment, an arrest record for a drug offense can be a lifelong punishment, limiting opportuni-

ties for education, housing, and employment for decades after the offense.

The significant racial inequality in the enforcement of marijuana laws is a critical component in the marijuana legalization debate taking place in California, and in the country writ large. It has undermined public support for marijuana prohibition and contributed to the rapid growth in support for marijuana legalization over the past decade.

ACKNOWLEDGEMENT

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